



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Blvd.
Box 4087
Austin, Texas 78773-0001

OR96-0112

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37823.

The Texas Department of Public Safety (the "department") received a request for the department's internal policy manual on applications and suspensions of drivers' licenses including "the Orders issued by DPS, as well as the Annex." The department has released all information responsive to the request except the "Annex," more specifically a document entitled "Guides for Determining Clear-Cut and Substantial Degree of Violation" (the "annex"). You contend that the annex is excepted from required public disclosure by section 552.108 of the Government Code.

Section 552.108 excepts the following from disclosure:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime.
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

When a governmental body claims section 552.108, the relevant question this office must address is whether the release of the requested information would undermine a legitimate interest relating to law enforcement or prosecution. Open Records Decision No. 434 (1986). The primary purposes of the section 552.108 exception are to protect law

enforcement and crime prevention efforts by preventing suspects and criminals from using records for evading detection and capture, *see* Open Records Decision Nos. 133 (1976), 127 (1976), and to protect the safety of police officers. *See, e.g.,* Open Records Decision No. 531 (1989). Therefore, section 552.108 will apply only where release of the requested information will unduly interfere with law enforcement and crime prevention. *Id.* at 2 (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (1977)).

Whether disclosure of particular records would unduly interfere with law enforcement must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981). The annex contains "a list of tolerances" developed by the department which illustrates "when the Department will ticket for an offense and when it will just warn the violator." You claim that releasing the annex will equip the public, including commercial operators, with knowledge it could use to avoid detection and citation for traffic offenses. You claim that releasing the annex will ultimately lead to unsafe conditions on highways. We agree that releasing the annex would unduly interfere with law enforcement and crime prevention; therefore, you may withhold the annex under section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and is not a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 37823

Enclosures: Submitted documents

cc: Ms. Jean Coyle
P.O. Box 264
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(w/o enclosures)